

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PHIL ROSEMANN, et al.,

Plaintiffs,

vs.

ST. LOUIS BANK,

Defendant/Third-Party Plaintiff,

vs.

PAUL VOGEL,

Third-Party Defendant.

Case No. 4:14-cv-00983-LRR

**THIRD-PARTY DEFENDANT PAUL VOGEL’S STATEMENT OF
UNCONTROVERTED MATERIAL FACTS IN SUPPORT OF HIS MOTION FOR
SUMMARY JUDGMENT AS TO ST. LOUIS BANK’S THIRD-PARTY COMPLAINT
WITH RESPECT TO CLAIMS OF RELEASING PLAINTIFFS**

COMES NOW Third-Party Defendant Paul Vogel (“Vogel”), by and through undersigned counsel, and files his Statement of Uncontroverted Material Facts in Support of his Motion for Summary Judgment As to St. Louis Bank’s Third-Party Complaint With Respect to Claims of Releasing Plaintiffs.

1. On June 30, 2010, thirty-nine of the Plaintiffs herein filed a lawsuit in this Court against numerous defendants, including Paul Vogel, in *Rosemann v. Sigillito*, case no. 4:10-CV-1165-LRR (the “Prior Rosemann Lawsuit”). See the **Corrected Third Amended Complaint** from the Prior Rosemann Lawsuit, attached hereto as **Exhibit 1**.

2. The allegations at issue in the Prior Rosemann Lawsuit concerned the British Lending Program (the “BLP”), a Ponzi scheme conducted by Martin Sigillito, a former attorney and Anglican Bishop in St. Louis. See **Exhibit 1**, ¶¶ 8-13. In particular, the plaintiffs therein

alleged that Vogel assisted the BLP by recruiting new investors and authoring a Due Diligence Report containing certain assurances about the BLP's operations in the United Kingdom. *Id.* at ¶¶ 22, 47.

3. At the conclusion of the Prior Rosemann Lawsuit as it relates to Vogel, Vogel reached a settlement with the plaintiffs, who then executed releases in favor of Vogel (the "Executed Rosemann Releases"). See the **Executed Rosemann Releases**, attached hereto as **Exhibit 2**. Their claims against Vogel were dismissed with prejudice.

4. The Plaintiffs who settled in the Prior Rosemann Lawsuit are Phil Rosemann, Richard & Melba Aguilar, Clark Amos, Thomas Barnes, Henry & Julia Barthel, Bonita Cobb, Sharon Cobb, Casey & Delores Cook, Jerry Cronkite, Mark Cunningham, Daryll Currier, Roy Currier, Thomas Currier, Charles Davis, Carol Green, Billy Harrison, Odis Hash, Donna Hogshooter, John & Audrey Holland, Stanley Kuhlo, Stanko Matayo, William McLemore, Lorena Messenger, Ben Miller, Bob Moore, Rudolf Ouwers, Buddy Quessenberry, Elaine Reed, Leonard Roman, John Shahan, Arlene Sincoski, Homer Smith, Gary Smith, Judith Smith and Dorothy Ziegler. See **Exhibit 2**. This is a total of 39 plaintiffs who settled and gave releases in the *Roseman* case, but who are also plaintiffs in this lawsuit.

5. The Executed Rosemann Releases stated that the plaintiffs in the Prior Rosemann Lawsuit released Vogel from "any and all claims set forth in Plaintiffs' Corrected Third Amended Complaint" as well as all claims "which could potentially exist or arise out of the facts, circumstances, conduct, or transactions forming the basis of any claim asserted, or which could have been asserted, in Plaintiffs' Corrected Third Amended Complaint." See **Exhibit 2**.

6. On August 25, 2014, eight of the Plaintiffs herein filed a lawsuit against Vogel and Argos Partners, LLC, *Glisson v. Vogel*, case no. 4:14-CV-01472-UNA (the "Prior Glisson

Lawsuit”). *See* the **First Amended Complaint** from the Prior Glisson Lawsuit, attached hereto as **Exhibits 3**, respectively.

7. The allegations in the Prior Glisson Lawsuit also concerned the BLP, and alleged that Vogel should be liable for the plaintiffs’ lost investments due to Vogel’s alleged involvement in the BLP. *See Exhibit 3*, ¶¶ 1, 5-7, 15, 345-48, 351-55, 357-61, 363-66, 369-72, 375-85, 388-97, 401-405, 460, 465-69, 472-76, 479-88.

8. At the conclusion of the Prior Glisson Lawsuit as to Vogel, Vogel reached a settlement with the plaintiffs, who then executed releases in favor of Vogel (the “Executed Glisson Releases”). *See* the **Executed Glisson Releases**, attached hereto as **Exhibit 4**. All such claims were dismissed with prejudice.

9. The Plaintiffs who settled in the Prior Glisson Lawsuit are Suzanne Glisson, Lewis Vollmar, Mark Bernstein, Lewis Bernstein, Marjorie Bernstein, Northwest Properties (1973) Ltd., Brad Werner as Trustee of J.H. Werner Revocable Trust, and Phillip Rosemann. *See Exhibit 4*. (Rosemann had signed a release in the prior case, but preserved certain claims.) Therefore, there are seven additional Releasing Plaintiffs from the Prior Glisson Lawsuit, who have previously released Vogel.

10. The Executed Glisson Releases stated that the plaintiffs in the Prior Glisson Lawsuit released Vogel from “all claims set forth in the First Amended Complaint” as well as all claims “which relate to or arise out of the facts, circumstances, conduct, or transactions forming the basis of any claim asserted, or which could have been asserted” in the Prior Glisson Lawsuit. *See Exhibit 4*.

11. In total, forty-six of the Plaintiffs herein (the “Releasing Plaintiffs”) executed releases in favor of Vogel that discharged him from liability for all claims arising out of the facts,

circumstances, conduct and transactions that formed the basis of either the Prior Rosemann Lawsuit or the Prior Glisson Lawsuit. *Compare* **Exhibit 2, Exhibit 4** and the **Original Complaint, Document #1**.

12. In this lawsuit, the Plaintiffs' central allegation is, again, the BLP. *See* the **Amended Complaint, ¶¶ 16-23**. Plaintiffs seek recovery from St. Louis Bank (the "Defendant Bank") based on their allegation that the Defendant Bank engaged in numerous unlawful acts in furtherance of the BLP in connection with an IOLTA account held at St. Louis Bank by Sigillito. *Id.* at ¶¶ 6-7.

13. The damages cited by Plaintiffs in their Amended Complaint are the loss of the funds they invested in the BLP. *Id.* at ¶¶ 309, 316, 321, 340.

DANNA MCKITRICK, P.C.

By: /s/Daniel G. Tobben
Daniel G. Tobben, #24219MO
Richard F. Huck, #32468MO
David A. Zobel, #64266MO
7701 Forsyth Blvd., Suite 800
St. Louis, MO 63105-3907
(314) 726-1000/(314) 725-6592 fax
E-mail: dtobben@dmfirm.com
E-mail: rhuck@dmfirm.com
E-mail: dzobel@dmfirm.com
ATTORNEYS FOR THIRD-PARTY
DEFENDANT PAUL VOGEL

CERTIFICATE OF SERVICE

The undersigned does hereby certify that I caused true and correct copies of the foregoing document to be served upon the parties receiving notice through the Court's ECF system by filing with the Court's ECF system at the date and time filed.

/s/ Daniel G. Tobben